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10/689,789	10/20/2003	Brent A. Hill	42P17630	7601

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EXAMINER

CHUNG TRANS, XUONG MY

ART UNIT	PAPER NUMBER
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2833

DATE MAILED: 11/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/689,789
Filing Date: October 20, 2003
Appellant(s): HILL ET AL.

Paul E. Steiner
For Appellant

MAILED

NOV 25 2005

GROUP 2800

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 25, 2005 appealing from the
Final Office action mailed February 18, 2005.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

No.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims (please note that the grounds of the rejection are same as the Non-final Office action and Final Office action and the grounds of the rejection are rewritten to provide better reference to the applied reference and to include explanation where it is needed):

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen et al (U.S. Patent No. 5,637,004).

As per claims 1 and 2, Chen et al disclose an electrical connector assembly, comprising: a mother-board (not shown); a connector (30) mount on the mother-board; an electronic card (module 102, Fig. 5) attached to the connector (30), the electronic card overhanging the connector at least on an inward end of the electronic card (see Fig. 6, the section labeled with "104"); a guide formed by the vertically open slot of the end wall (36) and the restriction wall (48) together for guiding and receipt of each end of the electronic card and adapted to provide side constraint movement of the electronic card at a position where the electronic card inserted and contacted to the guide; and a

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latch (70) inserted into cavities (40) and connected to the guide for aiding to retain the electronic card in the connector.

As per claims 3 and 4, Fig. 6 of Chen et al shows that the guide is in contact with both side surfaces of the electronic card (see left side of the Fig. 6 where the numbers "78" and "104" were labeled).

As per claim 5, the guide as defined in Chen et al is positioned along a bottom edge of the electronic card.

As per claims 6 and 7, Chen et al disclose that the electronic card has an opening (104) and that the latch (70) is adapted to engage with the opening in the electronic card.

As per claim 8, Fig. 5 of Chen et al shows that the latch is connected to one sidewall of the guide.

As per claims 9 and 10, Fig. 7B of Chen et al shows that the latch (70) comprises a lever (80) pivoting about an axis which is parallel with a lengthwise axis of the connector (30). Fig. 7B further shows the latch includes a base portion (ejection toe 76) between the pivot axis and the mother-board, and the base portion (ejection toe 76) is adapted to aid in the removal of the electronic card from the connector.

Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al (U.S. Patent No. 5,637,004).

As per claim 11, Chen does not explicitly disclose that the guide and the latch comprise a one-piece assembly. It would have been obvious to one having ordinary

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skill in the art at the time the invention was made to employ the guide and the latch comprises a one-piece assembly for easy assembly, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

As per claims 12-20, these claims recite method substantially correspond to the system claims 1-10; therefore, they are rejected under similar rationale.

(10) Response to Argument

As per claim 1,

Appellant states that the reference must **identically** disclose each and every claim recitation in order for the reference to anticipate the claimed invention. However, a *prima facie* case of anticipation has been established where the claimed and prior art products are substantially identical in structure. *In re Best*, 562 F.2d 1252, 1255, 195 USPQ 430, 433 (CCPA 1977). "When the PTO shows a sound basis for believing that the products of the applicant and the prior art are the same, the applicant has the burden of showing that they are not." *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990). Therefore, the *prima facie* case can be rebutted by evidence showing that the prior art products do not **necessarily** possess the characteristics of the claimed product. *In re Best*, 562 F.2d at 1255, 195 USPQ at 433.

MPEP 2112.01 states in part: " ... *In re Ludtke*, 441 F.2d 660, 169 USPQ 563 (CCPA 1971) (Claim 1 was directed to a parachute canopy having concentric

circumferential panels radially separated from each other by radially extending tie lines. The panels were separated "such that the critical velocity of each successively larger panel will be less than the critical velocity of the previous panel, whereby said parachute will sequentially open and thus gradually decelerate." The court found that the claim was anticipated by Menget. Menget taught a parachute having three circumferential panels separated by tie lines. The court upheld the rejection finding that applicant had failed to show that Menget did not possess the functional characteristics of the claims.); *Northam Warren Corp. v. D. F. Newfield Co.*, 7 F. Supp. 773, 22 USPQ 313 (E.D.N.Y. 1934) (A patent to a pencil for cleaning fingernails was held invalid because a pencil of the same structure for writing was found in the prior art.)."

Appellant argued that Chen fails to disclose the claimed guide which is adapted to inhibit lateral movement of the [electronic] card. The examiner respectfully disagrees. As pointed out in the ground of rejection above, the guide formed by the vertically open slot of the end wall (36) and the restriction wall (48) together is adapted to provide side constraint movement of the electronic card at a position where the electronic card contacted to the guide. The side constraint movement of the electronic card is considered to be inhibiting lateral movement of the electronic card.

Further, appellant pointed to Figs. 7A-7D of Chen to show substantial clearance between the walls 34 and the card 102; therefore, do not inhibit lateral movement of the card 102. The examiner respectfully points out that the Figs. 7A-7D of Chen are cross-sectional view of the insulative housing (32) and the card (module 102), without the end walls (36) and the restriction wall (48). In the ground of rejection above, the

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examiner stated that the vertically open slot of the end walls (not labeled) and the restriction wall formed a guide to provide such an inhibiting lateral movement of the electronic card (102) particularly at a position where the electronic card contacted to the guide. It is further pointed out that the vertically open slot of the end walls is substantially narrower than the space (40) formed by the pair of opposite side walls (34) and the pair of opposite end walls (36). And further, it is pointed out that a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

As per claim 12,

Claim 12 recites method substantially correspond to the system/apparatus claim 1; therefore, it is rejected under similar rational. Thus, the rejection and rebuttal to claim 1 are incorporated by reference.

As per claims 2 and 13,

Appellant argued that Chen does not teach or suggest providing side constraint for the card 102. The examiner respectfully disagrees. As pointed out in the ground of rejection above, the vertically open slot of the end wall (36) and the restriction wall (48) do provide side constraint for the electronic card (102). Thus, the guide, formed by the

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vertically open slot of the end wall and the restriction wall, substantially prevents lateral flexing of the electronic card at a point where the guide contacts the electronic card.

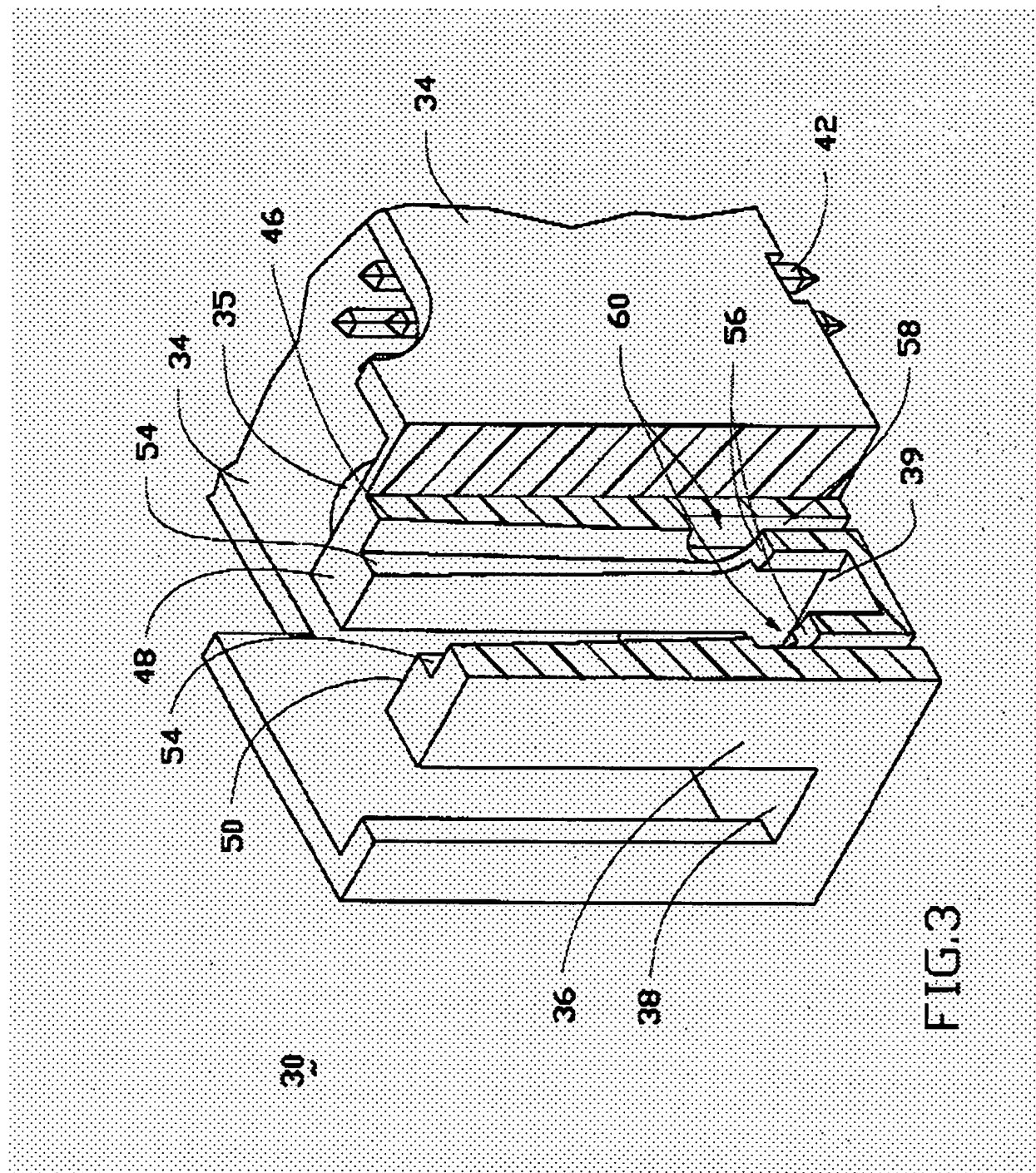
As per claims 3 and 14,

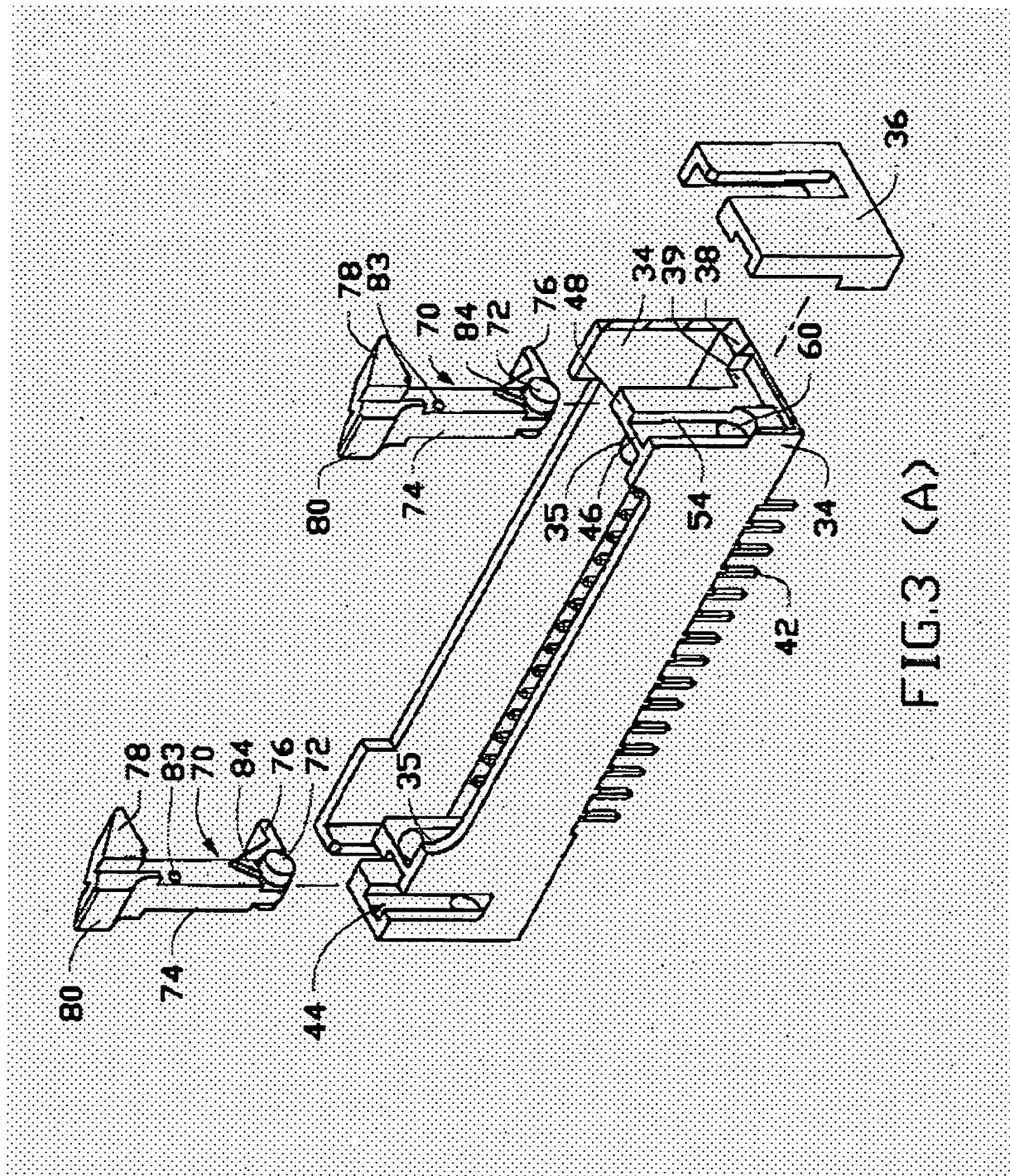
Appellant pointed to Figs. 7A-7D of Chen to show that the side walls (34) do not contacts one or more side surfaces of the card. The examiner respectfully disagrees. The recitation of claims 3 and 14 only require that one side of the sidewalls (34) contacts with one side surface of the card. In fact, Figs. 7A-7D of Chen do show one side wall is contacting one side surface of the card.

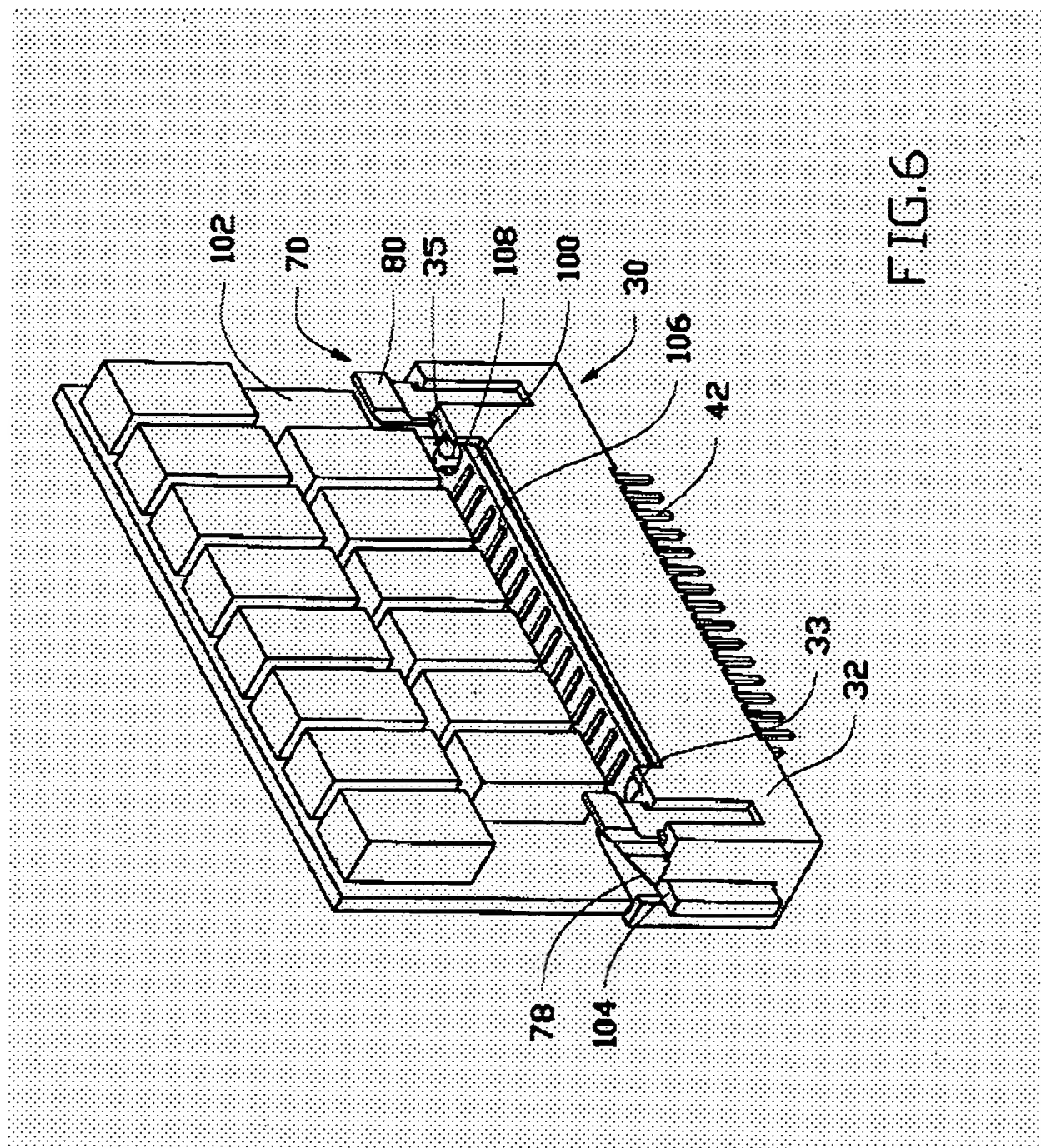
As stated in the ground of rejection above, the guide formed by the vertically open slot of the end wall (36) and the restriction wall (48) in Chen contacts both side surfaces of the electronic card (102).

As per claims 4 and 15,

Appellant pointed to Figs. 7A-7D of Chen to show that there is a substantially clearance between the side wall (34) and the card (102). It is pointed out that the Figs. 7A-7D of Chen are cross section view of the space 40 formed by a pair of opposite side walls (34), without the end walls (36). Figs. 3, 3A and 6 of Chen are the true representation of the claimed guide and show the guide formed by the vertically open slot of the end wall (36) and the restriction wall (48) contacts both side surfaces of the electronic card (102).







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(11) Related Proceeding(s) Appendix

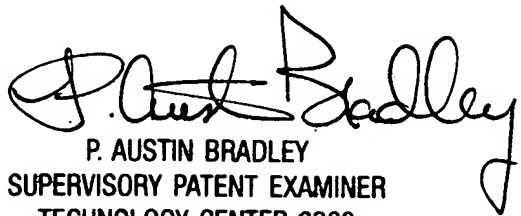
No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

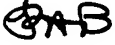


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